

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

ROBERT MCBRAYER,)	
Petitioner,)	
)	
v.)	Civil Action No. 06-667
)	
PAUL STOWITSKY, et al.,)	
Respondents.)	

O R D E R

AND NOW, this ^{31st} day of *Aug.* 2006, after a petition for a writ of habeas corpus was filed by the petitioner, Robert McBrayer, and after the Report and Recommendation of the United States Magistrate Judge was issued, and the petitioner was granted ten days after being served with a copy to file written objections thereto, and upon consideration of the objections filed by the petitioner, including his claim that he was denied meaningful appellate review, which was never raised in the state courts and is procedurally defaulted here, and after independent review of the petition and the record, and upon consideration of the Report and Recommendation of the Magistrate Judge, which is adopted and incorporated as the opinion of this Court,

IT IS ORDERED that the petition of Robert McBrayer for a writ of habeas corpus is dismissed, and that a certificate of appealability is denied for lack of a viable federal issue.

IT IS FURTHER ORDERED that pursuant to Rule 4(a)(1) of the F.R.App.P., if the petitioner desires to appeal from this Order, he must do so within thirty (30) days by filing a notice of appeal as provided by Rule 3 F.R.App.P.


United States District Judge

EQ-2831
SCRF Mercer
801 Butler Pike
Mercer, PA 16137

All Counsel of Record

Honorable Robert C. Mitchell
United States Magistrate Judge